

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35614

STATE OF IDAHO,)	2009 Unpublished Opinion No. 587
)	
Plaintiff-Respondent,)	Filed: August 26, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
RAMIRO PEDROZA,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Elmore County. Hon. Michael E. Wetherell, District Judge.

Order relinquishing jurisdiction and reinstating previously suspended unified ten-year sentence with five-year determinate term for rape, affirmed.

Molly J. Huskey, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; PERRY, Judge;
and GRATTON, Judge

PER CURIAM

Ramiro Pedroza pled guilty to rape, Idaho Code § 18-6101(1), and the district court imposed a unified ten-year sentence with a five-year determinate term but retained jurisdiction. The court subsequently relinquished jurisdiction and ordered Pedroza's sentence executed. Pedroza appeals, claiming that the district court abused its discretion by relinquishing jurisdiction and failing to sua sponte reduce his sentence.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-

97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Pedroza has failed to show that the district court abused its discretion, and we therefore affirm the order relinquishing jurisdiction.

After a probation violation has been established, the court may order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho 324, 326, 834 P.2d 326, 328 (Ct. App. 1992); *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). A decision to refuse to reduce the sentence earlier pronounced will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Marks*, 116 Idaho at 978, 783 P.2d at 317.

Sentencing is also a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

When we review a sentence that is ordered into execution following a period of probation, we do not base our review solely upon the facts existing when the sentence was imposed. Rather we also examine all the circumstances bearing upon the decision to revoke probation and require execution of the sentence, including events that occurred between the original pronouncement of the sentence and the revocation of probation. *State v. Whittle*, 145 Idaho 49, 52, 175 P.3d 211, 214 (Ct. App. 2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion by refusing to sua sponte reduce Pedroza's sentence.

The order of the district court relinquishing jurisdiction and ordering execution of Pedroza's sentence without modification is affirmed.